

Amendment and Response under 37 C.F.R. 1.116

Applicant: Gerome A. Haney

Serial No.: 10/629,005

Filed: July 29, 2003

Docket No.: 10990836-3

Title: RACK MOUNT ASSEMBLY

REMARKS

The following Remarks are made in response to the Final Office Action mailed July 13, 2004, in which claims 10-22, 24-36, 38, and 41 were rejected. With this Amendment, claims 10, 15, 24, 29, and 38 have been amended to clarify Applicant's invention. Claims 10-22, 24-36, 38, and 41 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103

Claims 10-15, 17-21, 24-29, 31-35, 38, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kofstad U.S. Patent No. 5,833,337. Claims 22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kofstad in view of Harrington et al. U.S. Patent No. 2,927,652.

With this Amendment, independent claim 10 has been amended to clarify that the rack mount has a length between the first and second ends, and that the length of the rack mount is maintained when the rack mount is in the first position, the second position, and the third position. In addition, independent claim 24 has been amended to clarify that the rack mount has a length between the first and second ends, and that the length of the rack mount is maintained when the rack mount is moved from the first position to the second position. In addition, independent claim 38 has been amended to clarify that sliding the rack mount assembly relative to the opposing column flanges and engaging flange apertures of the opposing column flanges with the alignment protrusions each include maintaining the length of the rack mount assembly.

With respect to the Kofstad and Harrington et al. patents, neither of these patents, individually or in combination, teach or suggest a rack mount assembly, as claimed in amended independent claim 10, a rack system, as claimed in amended independent claim 24, nor a method of mounting a rack mount assembly, as claimed in amended independent claim 38.

In view of the above, Applicant submits that independent claims 10, 24, and 38 are each patentably distinct from the Kofstad and Harrington et al. patents and, therefore, are each in a condition for allowance. Furthermore, as dependent claims 11-22 further define patentably distinct claim 10, dependent claims 25-36 further define patentably distinct claim

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24, and dependent claim 41 further defines patentably distinct claim 38, Applicant submits that dependent claims 11-22, 25-36, and 41 are also in a condition for allowance. Applicant, therefore, respectfully requests that the rejections of claims 10-15, 17-21, 24-29, 31-35, 38, and 41 under 35 U.S.C. 102(b) and claims 22 and 36 under 35 U.S.C. 103(a) be reconsidered and withdrawn and that claims 10-22, 24-36, 38, and 41 be allowed.

Double Patenting

Claims 10-16 and 18-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11, respectively, of U.S. Patent No. 6,681,942. Claims 24-30 and 32-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-22, respectively, of U.S. Patent No. 6,681,942.

With the Amendment filed September 10, 2004, a terminal disclaimer in compliance with 37 CFR 1.321(c) was filed to overcome the double patenting rejection. In the Advisory Action mailed October 1, 2004, the Examiner noted that the terminal disclaimer was accepted and that the double patenting rejection of claims 10-16, 18-22, 24-30, and 32-36 has been overcome.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 10-22, 24-36, 38, and 41 are all in a condition for allowance and requests reconsideration of the application and allowance of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to either Robert D. Wasson at Telephone No. (360) 212-2338, Facsimile No. (858) 655-5859 or Scott A. Lund at Telephone No. (612) 573-2006, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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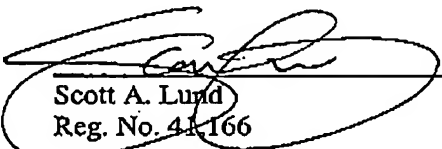
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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on this 13TH day of October, 2004.

By 

Name: Scott A. Lund